



IN ASSOCIATION WITH



Rother Local Plan 2020 – 2040 Draft (Regulation 18) Version

Response to the Regulation 18 Consultation

**Site known as land to the west of the A28, Northiam Road, Broad Oak
Policy BRO1 of the adopted Development and Site Allocation Local Plan**

On behalf of Cantium Land and Development Ltd.

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1. Introduction

- 1.1. We are writing on behalf of our client, Cantium Land and Development Ltd, in respect of the Rother Local Plan 2020 – 2040 Draft (Regulation 18) Version. Cantium have a formal agreement with the majority landowner to promote the site in the Rother Local Plan Review.

2. Vision for Rye and the Eastern Settlement Cluster

- 2.1. We support the Council's approach to Rye and the Eastern Settlements, which identifies the historic market town of Rye as the main service and employment centre in eastern Rother. Furthermore, that settlements within the eastern part of the district depend on Rye for wider facilities and services, and that these settlements as identified in Figure 27 (of the Draft Regulation 18 Local Plan) form a cluster of settlements, of which Broad Oak forms part of.
- 2.2. We welcome that the Council have identified that sensitive levels of growth can be delivered in the cluster of settlements that connect to Rye. We are keen at this stage to ensure that sites makes best use of the land in accordance with National Policy and the desire to meet the defined housing requirement for the Rother district.
- 2.3. Our client has a formal interest in the land to the west of the A28, Northiam Road, Broad Oak. This land parcel currently forms part of the wider Development and Site Allocations Local Plan (Dec 2019) (DaSA) site allocation Policy BRO1.
- 2.4. Policy BRO1 is allocated for residential development of 40 dwellings, together with an area of public open space comprising retained woodland and allotments.
- 2.5. In this regard, we are supportive that DaSA allocation Policy BRO1, land west of the A28, Northiam Road, Broad Oak continues to be included as an 'identified' development site (a site which is allocated for development) and would continue to form part of the development plan, at Figure 28 of the Draft Regulation 18 Local Plan.

- 2.6. On this basis, we have addressed the suitability of the site within our response to Q67 in the consultation on the Housing & Economic Land Availability Assessment (HELAA), which identifies suitable and potentially suitable development sites.

3. Housing and Economic Land Availability Assessment (HELAA)

Brede Site ID: BRE0002

- 3.1. The land to the west of the A28, Northiam Road, Broad Oak, is acknowledged within the HELAA as an 'identified site (an existing allocated site), in this case Policy BRO1 in the DASA Local Plan.
- 3.2. Paragraph 69 of the National Planning Policy Framework ('NPPF') requires that local planning authorities ('LPAs') 'should identify a supply of:
- a) specific, deliverable sites for five years following the intended date of adoption; and
 - b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period'.
- 3.3. The Glossary of the NPPF defines deliverable and developable as following:

To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”.

- 3.4. To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged”.
- 3.5. Furthermore, in accordance with the HELAA Planning Practice Guidance (PPG) (Paragraph: 022 Reference ID: 3-022-20190722) “Information on suitability, availability, achievability and constraints can be used to assess the timescale within which each site is capable of development”.
- 3.6. We support that the HELAA identifies the site as suitable for housing development and we welcome that the Council has acknowledged in their HELAA assessment that alternative layouts could be achieved, and that potentially this could include additional adjoining land. In this regard, the HELAA’s Site Assessment has been reproduced below.

Site ID	Site Address	Site size (hectares)	Summary of Environmental Constraints	Site Identification	Site Assessment	Development Potential	Anticipated Timescale for Development
BRE0002	Land west of the A28, Northiam Road, Broad Oak	2.57	The site is within the High Weald National Landscape. Adjacent to Ancient Woodland and Deciduous Woodland Priority Habitat and TPOs. Some areas at risk of surface water flooding. A public footpath runs along the western boundary.	Allocated site	The site is allocated in the DaSA Local Plan for 40 dwellings (Policy BRO1). While it remains suitable for this development, it has not yet come forward and is in multiple land ownerships which appears to be a potential issue in achieving a comprehensive development at the site. Nevertheless, the various landowners have indicated the site is available. It may be that an alternative layout could be achieved here if necessary, potentially with additional adjoining land. Consequently, the suggested capacity remains as per the allocation.	40 dwellings	Within 5 years

- 3.7. We set forth that the site remains Suitable, Available and Achievable.
- Suitable: As has previously been concluded through an Examination in Public (EiP), and in accordance with the NPPF, the development of the site in principle is considered to be acceptable. The site is allocated in the DaSA Local Plan for 40 dwellings (Policy BRO1).
 - Available: The site owners have confirmed that the site is available, and they are actively promoting it for residential development.

- Achievable: Although this site has not yet come forward since its allocation in the DaSA, issues relating to land ownership and the ability of providing a comprehensive development have now been addressed and the various landowners have now indicated that the site is available, with a realistic prospect that housing will be delivered on the site within five years. The majority landowner of the land subject to these representations has been in detailed discussions with the other landowner whose land forms part of the allocation with regards to bringing forward a planning application.
- 3.8. There is also the possibility to provide a phased development scheme, across the plan period, which could be easily achieved and which we would be keen to discuss at the early stage. Noting that the existing 40-unit allocation forms part of the 5-year housing land supply, but any increase in numbers could provide a broad level of growth that could be delivered in years 6 through to 11, in accordance with policy 69(b)
- 3.9. In this regard, we would suggest that the policy wording for the site allocation be amended to include that the development of the site can come forward as a comprehensive scheme or as a phased development comprising residential development and public space.
- 3.10. Consequently, we would suggest that an additional criterion be added to existing Policy BRO1 to state, "Should development of the site come forward in separate phases, provision be made for an appropriate connection with the wider site to ensure the overall objectives of the sites allocation can be fulfilled in full."
- 3.11. Furthermore, paragraph 11.33 of the DaSA Local Plan states "Access would be gained from the A28 via one of the residential properties although the precise access point is to be determined and will be subject to further investigation including a Road Safety Audit at planning application stage.
- 3.12. In order to not compromise the ability of the site to come forward, a level of flexibility should be afforded to the vehicular access points. We therefore submit that the existing wording to criteria (ii) of Policy BRO1 be amended as follows:

"(ii) a new access is provided to the site either off the A28 Northiam Road to the east, or via an alternative appropriate entrance point to the satisfaction of the Highway Authority."

- 3.13. We strongly support the Council decision to identify this site and allocate it for housing in the New Local Plan 2020-2040. The site subject to this representation would contribute positively to the requirement to meet the needs for housing within the District, making effective use of an available site, located within a sustainable location with good access to public transport, local services and facilities. We therefore agree the principle of housing development on this site should continue to be considered to be acceptable and the allocation of this site as such, should be carried forward into the new Local Plan.

4. Proposed Policy GTC8: Biodiversity Net Gain Q23.

- 4.1. We acknowledge and support the objective of Biodiversity Net Gain (BNG) and the aim to leave the natural environment in a measurably better state than it was beforehand.
- 4.2. However, we object to proposed Policy GTC8, which sets out a suggested requirement to deliver at least 20% measurable biodiversity net gain.
- 4.3. Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) requires that developers must deliver a BNG of 10%.
- 4.4. The National Planning Policy Guidance 'Biodiversity Net Gain' at Paragraph: 006 Reference ID: 74-006-20240214 states, "Plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies, they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented."
- 4.5. The evidence base which supports Rother's inclusion for a policy to provide a 20% BNG can be found in the Environmental Management Background Paper (April 2024). This background document fails to provide a robust reason that a 20% BNG requirement is needed or would indeed ensure that the development of sites in East Sussex would remain viable.

- 4.6. Paragraph 5.7 of the Environmental Management background document summarises that the work undertaken by the Kent Nature Partnership sets out that there is no reason that increasing the BNG requirement would impact on the viability of a scheme.
- 4.7. However, we argue that this assessment work has been undertaken in the neighbouring County and on this basis the specific nuances relating to developing in East Sussex have not formed part of the understanding of the viability for developing in Rother and on this basis the evidence is unsound and not robust.
- 4.8. In accordance with NPPF paragraph 128. "Planning policies and decisions should support development that makes efficient use of land, taking into account: "...b) **local market conditions and viability**"; (emphasis on local)
- 4.9. Having read the background document in full, there is no detail setting out why the Rother District will expect a 20% net gain, other than detailing that the legislation affords them the possibility to do it, and that other Local Planning Authorities (LPAs) in the country have done it previously.
- 4.10. At paragraph 3.48 of the New Local Plan 2020-2040 it states, "The Environment Act 2021 proposes a minimum 10% BNG, but a minimum 20% BNG will be required within the district using the Statutory Metric. This higher level is justified because opportunities to deliver this off-site, if necessary, are available locally. The viability of development is unlikely to be unduly impacted in most cases."
- 4.11. We object to this sentence and the ambiguity of the final sentence "in most cases".
- 4.12. It is submitted that the above is not sufficient justification for the Council to require a BNG percentage increase above the governments BNG of 10%. Should the Council seek to pursue this position, then it should be evidenced based in order to robustly demonstrate that a BNG of 20% would not impact on the number of homes delivered and on the viability of developments as per the government guidance highlighted above.